

[NOT FOR PUBLICATION ON WESTLAW OR LEXIS]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED

DOC#

DATE FILED: 1/25/12

----- x
PAUL NEWMAN,

Plaintiff,

-against-

P.A. KWAN, Medical Staff &
C.O. D. RODRIGUEZ, 3-11 Shift,

Defendants.
----- x

:

:

:

:

:

:

:

10 Civ. 4123 (ALC) (AJP)

REPORT AND RECOMMENDATION

ANDREW J. PECK, United States Magistrate Judge:

To the Honorable Andrew L. Carter, Jr., United States District Judge:

By memo endorsed order dated December 10, 2010, Judge Griesa gave plaintiff Newman an extension of time until January 25, 2011 to have the summons and complaint served on defendants. (Dkt. No. 4.) It is now one year later, and there is no evidence in the docket that defendants have been served. The U. S. Marshals Service has no record of receiving any request for service from plaintiff.

Accordingly, the Court should dismiss the case without prejudice pursuant to Fed. R. Civ. P. 4.

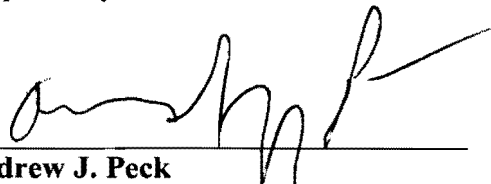
FILING OF OBJECTIONS TO THIS REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report to file written

objections. See also Fed. R. Civ. P. 6. Such objections (and any responses to objections) shall be filed with the Clerk of the Court, with courtesy copies delivered to the chambers of the Honorable Andrew L. Carter, Jr., 500 Pearl Street, Room 725, and to my chambers, 500 Pearl Street, Room 1370. Any requests for an extension of time for filing objections must be directed to Judge Carter (with a courtesy copy to my chambers). Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140, 106 S. Ct. 466 (1985); IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1054 (2d Cir. 1993), cert. denied, 513 U.S. 822, 115 S. Ct. 86 (1994); Roldan v. Racette, 984 F.2d 85, 89 (2d Cir. 1993); Frank v. Johnson, 968 F.2d 298, 300 (2d Cir.), cert. denied, 506 U.S. 1038, 113 S. Ct. 825 (1992); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989); Wesolek v. Canadair Ltd., 838 F.2d 55, 57-59 (2d Cir. 1988); McCarthy v. Manson, 714 F.2d 234, 237-38 (2d Cir. 1983); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72.

Dated: New York, New York
January 25, 2012

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew J. Peck', written over a horizontal line.

Andrew J. Peck
United States Magistrate Judge

Copies to: Paul Newman (Mail)
Judge Andrew L. Carter, Jr.